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2300 N STREET, N.W.
WASHINGTON, D.C. 20037-1128
(202) 663-8000
FACSIMILE
(202) 663-8007

1501 FARM CREDIT DRIVE
MCLEAN, VIRGINIA 22102-5004

201 LIBERTY STREET, S.W.
LEESBURG, VIRGINIA 22075-2721

JILL A. STERN
(202) 663-8380

July 11, 1994

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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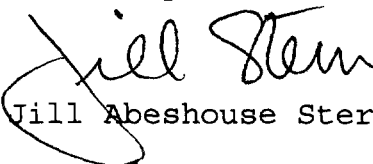
Re: CC Docket No. 94-46

Dear Mr. Caton:

On behalf of Metropolitan Houston Paging Services, Inc., I am transmitting herewith an original and five copies of its comments in the above-referenced proceeding.

Should there be any questions concerning this matter, kindly communicate with the undersigned.

Sincerely,


Jill Abeshouse Stern

JAS:pad

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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JUN 11 1994
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In the Matter of)
)
Amendment of Part 22)
of the Commission's Rules)
to Delete Section 22.119 and)
Permit the Concurrent Use of)
Transmitters in Common Carrier and)
Non-Common Carrier Services)

CC Docket No. 94-46

COMMENTS OF METROPOLITAN HOUSTON PAGING SERVICES, INC.

Metropolitan Houston Paging Services, Inc. ("MHPS"), by its attorneys, submits comments with respect to the Notice of Proposed Rulemaking and Order in the above-captioned proceeding (the "Notice").^{1/} In the Notice, the Commission proposes to delete Rule 22.119 thereby permitting the joint licensing and use of transmitters in the common carrier and private carrier services.

MHPS supports the Commission's proposal to delete Rule 22.119 and urges the Commission to move forward expeditiously with the proposed rule change which will facilitate the provision of diverse and cost-effective paging services to the public.^{2/}

^{1/} Notice of Proposed Rulemaking and Order, CC Docket No. 94-46, FCC 94-113, released June 9, 1994.

^{2/} MHPS is a Part 22 licensee and operates a wide-area paging system in Texas on 931.4875 MHz covering most of southern, central and eastern Texas. Due to the growing demand for

Footnote continued on next page.

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As the Notice correctly points out, Rule 22.119 has out-lived whatever purpose it may have initially served. The prohibition on dual-use transmitters has no technical, service or public interest rationale. To the contrary, deletion of the prohibition will serve the public interest by fostering diverse service choices and reduced costs to consumers.

Perhaps most importantly, joint licensing and use of common carrier transmitters for private carrier services will enable licensees to expand the range of services available to the public, expeditiously and at a relatively low cost without the need for costly duplication of facilities. MHPS estimates that the cost to construct a statewide PCP system on a stand-alone basis could exceed \$ 1.825 million.^{3/} In contrast, the same regional service could be provided by adding a second channel to existing transmitters for a fraction of that cost (i.e., approximately \$5,000 per transmitter.) The reduced construction

Footnote continued from previous page.

its facilities, MHPS has applied for an exclusive private carrier paging authorization in Texas to provide regional service in the 929 MHz band. MHPS is a venture of Lufkin Conroe Telecommunications, Inc., SLT Communications, Inc. (a wholly-owned subsidiary of Alltel Corp.) and GTE of the Southwest.

^{3/} This figure is based on the capital costs of constructing 73 new transmitter sites and does not include the additional recurring cost for antenna site rentals that would also be incurred. In Texas, the average yearly rental fee is about \$4800 per site (i.e., an additional running cost of \$350,400 each year).

costs will ultimately be passed on to the public as lower service costs.

In the Notice, the Commission invites comment on the option of retaining Rule 22.119 but modifying its impact to permit the concurrent use of transmitters in limited circumstances. MHPS opposes this partial approach. Rule 22.119 should be deleted in its entirety.

Restricting concurrent use of transmitters to specific circumstances will potentially embroil the Commission in unnecessary and impermissible distinctions between different licensees, without any justification for doing so. In particular, there is no reason to limit joint use of transmitters to carriers offering services that are different in kind (e.g., local v. regional service.) This distinction would needlessly limit the flexibility of licensees to respond to market demand and could provide an unfair competitive advantage for certain licensees and systems. In addition, such distinctions are inconsistent with the Omnibus Budget Reconciliation Act of 1993 and the new regulatory structure established by the Second Report and Order in GN Docket 93-252 which was designed to ensure symmetrical regulatory treatment of competing mobile service providers.^{4/}

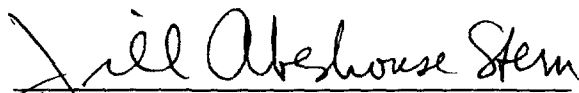
^{4/} See also Further Notice of Proposed Rulemaking, GN Docket No. 93-252, FCC 94-100, released May 20, 1994.

Finally, MHPS supports the granting of interim waivers of Rule 22.119 during the pendency of this rulemaking, and agrees with the Commission's conclusion in the Notice that waiver of Rule 22.119 is in the public interest. As the Commission correctly concludes, waivers of Rule 22.119 will permit existing Part 22 licensees "to use [their] existing infrastructure, thereby achieving a significant cost savings which will result in the provision of service sooner and at lower rates to [their] subscribers."^{5/} The Commission should provide equivalent treatment for waiver requests now pending before the agency, and grant those waiver requests as expeditiously as possible.

Respectfully submitted,

METROPOLITAN HOUSTON
PAGING SERVICES, INC.

By


Jill Abeshouse Stern

SHAW, PITTMAN, POTTS & TROWBRIDGE
2300 N Street, N.W.
Washington, D.C. 20037
202/663-8380

Its Attorneys

July 11, 1994

^{5/} Notice at para. 10.